

EXHIBIT D



99 PARK AVENUE NEW YORK, NY 10016-1601
TEL: (212) 286-8585 FAX: (212) 490-8966
WWW.HPMB.COM

PROPOSED DRAFT JOINT LETTER

Hayley Newman
Partner
hnewman@hpmb.com

September 21, 2021

VIA ECF

Magistrate Judge Louis Bloom
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Minhye Park v. David Kim, M.D.
Docket: 1:20-CV-02636(PC)
Our File: 778-1018

Dear Judge Bloom:

The following joint letter is in response to the Court's order dated September 20, 2021, directing the parties to file a letter regarding the status of plaintiff's deposition noticed to be held on September 20, 2021 and the status of rescheduling plaintiff's deposition.

On September 20, 2021, counsel for Defendant Dr. Kim appeared virtually for Ms. Park's deposition, in accordance with the Second Notice of Plaintiff's Deposition. This deposition notice was served on Plaintiff's counsel on August 20, 2021. Ms. Newman appeared via videoconference and also present for the deposition was Lexitas court reporter, Ms. Gina DeMarco and Korean interpreter, Mr. Sean Kim. There were no appearances by Plaintiff's counsel, Ms. Lee, or her client, Minhye Park. A copy of the transcript and exhibits marked is attached. Exhibits A and B are the deposition notices served in this case for Plaintiff's deposition and Exhibit C is a copy of the emails exchanged between the parties regarding the deposition.

Plaintiff's counsel's objected to the Second Deposition Notice on the afternoon of September 17, 2021, and took the position is that her client should not be required to appear for her deposition during normal business hours in Eastern Standard Time because those hours are inconvenient to Ms. Park. Ms. Park resides in South Korea.

Honorable Judge Bloom
Re: Park v. Kim et al.
September 21, 2021
Page 2



On September 21, 2021, defense counsel contacted Ms. Lee and proposed to reschedule the deposition of her client during the Court's business hours on the following dates: September 29, October 5, October 6, October 8 and October 25. Plaintiff's counsel responded that the deposition must take place in "S Korea time," from 10:30 p.m. EST to 4:00 a.m. Regrettably, the parties have been unable to find a mutually convenient time to reschedule this deposition.

Plaintiff's counsel's position:

Defense counsel's position:

Defendant's position is that Ms. Park's deposition, along with all other depositions in this case, should proceed during the Court's normal business hours, between the window of 9:30 a.m. and 5:00 p.m. EST. This is particularly necessary in the event that issues arise during the deposition that might require a conference with chambers. Once the case is set down for trial, surely, this Court will not be scheduling a jury trial outside of the Court's normal business hours. Since Ms. Park is availing herself of the remedies and procedural rules of this Court, she should appear for deposition during the Court's business hours. The times proposed by plaintiff's counsel for her client's deposition are unreasonable to the other necessary participants of the deposition. The court reporter, court interpreter and defense counsel should not be required to work overnight or outside normal business hours for the convenience of the party who has the burden of prosecuting a civil case that she opted to file in the United States. It would be not only inconvenient, but a hardship, for defense counsel to appear during the hours proposed by Plaintiff's counsel.

Defense counsel attempted in good faith to comply with this Court's orders dated August 11, 2021 and August 27, 2021 with respect to completing this deposition. We intended to proceed with the deposition notwithstanding Plaintiff's failure to produce the discovery outlined in those orders. Prior to September 20, 2021, the undersigned filed a Second Letter Motion with the Court regarding these issues and the outstanding discovery. The Court has yet to issue a response to that request. While we are ready to proceed with Plaintiff's deposition, the deposition must be kept open until Plaintiff has furnished all of the discovery outlined in Defendant's Motion to Compel, in accordance with those prior orders. Defendant is presently available to conduct Plaintiff's deposition during normal business hours on the following dates: September 29, October 5, October 6, October 8 and October 25.

Defendant objects to Plaintiff's latest motion for a protective order and seeks a briefing schedule to submit opposition if Plaintiff's motion will be further entertained by the Court. Plaintiff's request for sanctions are baseless, improper, and the motion falsely mischaracterizes the record.

Respectfully submitted,

Honorable Judge Bloom
Re: Park v. Kim et al.
September 21, 2021
Page 3



Hayley Newman

Encls. Deposition Transcript and Exhibits dated September 20, 2021

cc: **VIA ECF**

JSL Law